RIGHTS, RISKS AND RESPECT

A First Nations Perspective
on the Lifting of the Federal Moratorium
on Offshore Oil & Gas Exploration in the
Queen Charlotte Basin of British Columbia

Cheryl Brooks, October 2004

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Point de vue des Premières nations sur la levée
du moratoire fédéral visant les activités
d'exploration pétrolière et gazière dans le
bassin de la Reine-Charlotte, au large des
côtes de la Colombie-Britannique

Issued by Natural Resources Canada

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The opinions expressed in this report are those of various First Nations representatives or of the Author, Ms. Cheryl Brooks to provide advice to the Minister of Natural Resources Canada. They are not necessarily the opinion or policy of Natural Resources Canada.

Cover Photo by Cheryl Brooks

Cheryl Brooks Consulting Ltd. Duncan, British Columbia

October 20, 2004

Honourable R. John Efford
Minister of Natural Resources Canada
Ottawa, Ontario

Minister Efford,

It is my pleasure to provide you with the report from the First Nations Engagement Process on the question of lifting the moratorium on offshore oil and gas activity in British Columbia. As anticipated, this has been a challenging and rewarding project. The title *Rights, Risks and Respect* reflects the key themes heard over and over from a variety of respondents.

Even though the agendas of the First Nations are very full so many of them found time to meet with us and share their thoughts and views. When they expressed concerns that information they shared would not be heard and considered, I passed on the assurances you had conveyed to me that this information is vital to inform your and your Cabinet colleagues' decision-making process.

I also wanted to make you aware of how helpful Phil Jennings, Kristi Varangu and Zoë Carlson from your Department have been in keeping this work moving forward and supporting me in this effort – it is much appreciated.

Mr. Minister, I believe that the contents of this report accurately reflect what was presented by the First Nations representatives, and trust that it is informative and helpful to the Government of Canada in reaching its decision on this most important matter. Thank you for providing me the opportunity to be part of this work.

Yours truly,

Cheryl Brooks

Cheryl Brooks

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EXECUTIVE SUMMARY

The First Nations Engagement Process (FNEP) on the question of whether or not to lift the federal moratorium on offshore oil and gas exploration in the Queen Charlotte Basin of British Columbia's coastal waters was announced by Minister Efford on February 18, 2004. Originally slated to end June 30, the information gathering phase was extended to September 3, 2004. By that time the Minister's representative Cheryl Brooks and NRCAN's Zoë Carlson had held meetings and conversations with representatives of approximately seventy First Nations communities, including the majority of the communities directly adjacent to or near to the boundaries of the Queen Charlotte Basin. Other communities were from the Winona, Tofino and Georgia Basin areas and a few from inland British Columbia.

The First Nations Engagement Process strove to:

- Assist First Nations representatives and community members in getting information about the Government of Canada moratorium review
- Ensure that First Nations were aware of the Public Review Process and how to participate if they chose
- Provide a forum for information sharing and discussion about the federal moratorium for First Nations who wished to share their views without necessarily wanting to participate in the Public Review, or in addition to participating in that process
- Gather and record feedback for the Minister of Natural Resources Canada to inform the federal government about the unique views of First Nations about whether or not to lift the federal moratorium

Many of the meeting participants prefaced the discussion with the caveat that from the First Nation perspective this process was not to be construed as "consultation". This was to reinforce their view that these discussions would not meet the First Nations understanding of the legal test for "consultation" as set out in the various court cases and government policies.

Most of the participants also conveyed the message that any views and information provided could only be considered preliminary as the First Nations lacked appropriate resources and sufficient time to provide meaningful and informed comment. Further that most First Nations had not had the opportunity to engage in any dialogue with their memberships. Another resounding message was that there was great mistrust of the federal governments' ability and commitment to hear and respond to anything the First Nations said. In particular – several suggested that the federal government had already reached its decision to support British Columbia's desire to lift the moratorium and the engagement process was simply an "optics" exercise. Notwithstanding these general caveats the First Nations provided a wide range of thoughts and concerns that they believe must be considered when reaching a decision on whether or not to lift the moratorium.

"First Nations lacked appropriate resources and sufficient time to provide meaningful and informed comment."

Many comments related to the recognition of rights, the need for greater understanding of risks and the necessity of governments working with First Nations in a respectful manner. Some of the key subjects were:

- The need for resolution of unresolved title, rights and jurisdictional issues and, in particular, foreshore rights
- Inadequacy of information on key impacts of the lifting of the moratorium on their resources and lifestyles
- The need to come together as coastal First Nations peoples to exchange knowledge and views and reach agreement on such a critical matter
- Concern about potential impacts of spills on a wide variety of coastal marine life
- Belief that potential impacts of offshore activity would be significant with respect to their fishing rights and the correlating traditional practices given the migratory nature of primary fish stocks through the Queen Charlotte Basin
- View that impacts of seismic testing to marine species may be too significant to offset the potential economic benefits of offshore exploration and development
- Concern that with continued resource exploitation the eventual treaty settlements will be "empty baskets"
- Need for meaningful inclusion of traditional ecological knowledge in the science work related to offshore oil & gas
- Concern that First Nations were not involved in the design of the engagement and public review processes and that First Nations governments are not being respected because they are not being fully involved in designing studies and participating in decision – making
- Concern that given the importance of climate change issues the governments are not more aggressively pursuing alternative energy options
- Lack of trust that compensation will be provided for losses to resources and damage to lifestyles

"...impacts of seismic testing to marine species may be too significant to offset the potential economic benefits of offshore exploration and development."

The numerous First Nations of the Northwest Coast and other coastal communities and inland communities of British Columbia who participated in the FNEP unanimously indicated that it is not in the best interests of their people to lift the oil and gas exploration moratorium in the Queen Charlotte Basin. A small number added the qualifier that "it should not be lifted at this time".

There are two perspectives contributing to this conclusion. One view is that an informed decision cannot be made on the basis of currently available information. The second view is that there is enough information available now to definitively conclede that the moratorium should absolutely not be lifted. Detailed comments from meetings are included in the Appendix.

Though not one First Nation that met with FNEP endorsed the lifting of the moratorium, many First Nations indicated a preparedness to more fully explore the issue of offshore oil and gas exploration provided they are adequately resourced and given enough time to do so.

When First Nations were asked what the requested resources were needed for, the list included; filling information, knowledge and science gaps, building capacity among their members, support for meetings and decision making between the various First Nations and other levels of government, training and skill development, scientific and technical expertise. It is clear that First Nations support for lifting the moratorium or for moving forward in any way on offshore oil & gas exploration would depend on their level of confidence that they have had a solid opportunity to make well informed decisions in the interests of their people and territories for both today and for the future.

"...as a result of the Exxon Valdez oil spill off the Alaskan coast in 1989, the two governments decided to continue their moratoria."

History of the Process to Date

In 1972, the Government of Canada imposed a moratorium on crude oil tanker traffic through Dixon Entrance, Hecate Strait, and Queen Charlotte Sound due to concerns over potential environmental impacts. The moratorium was subsequently extended to include oil and gas activities. This was followed by a similar prohibition by the Government of British Columbia.

In September 1983, the Governments of Canada and British Columbia carried out a joint federal-provincial review of the potential environmental and socioeconomic effects of oil and gas exploration offshore British Columbia. After numerous public information meetings and public hearings throughout northern coastal British Columbia a report suggested 92 terms, conditions, and recommendations to be applied to offshore oil and gas activities. However, as a result of the Exxon Valdez oil spill off the Alaskan coast in 1989, the two governments decided to continue their moratoria.

In 2001, the Government of British Columbia commissioned several studies to assess the potential impacts of offshore oil and gas activities. This was followed by a scientific panel review, also commissioned by British Columbia, which concluded in its January 15, 2002 report that: "There is no inherent or fundamental inadequacy of science or technology, properly applied in appropriate regulatory framework, to justify a blanket moratorium on such activities". The Panel also concluded that: "There would be several important things that would need to be done before there could be any expectation of investor interest, public or private, in proposals for exploration or development work in the British Columbia offshore."

In 2002, the Government of British Columbia provided copies of the studies and the scientific panel review report to the Government of Canada and requested that it consider lifting the federal moratorium on oil and gas activities in the Queen Charlotte Basin.

The Federal Approach

As a result of a Cabinet Directive revised in 1999, any future change by Cabinet to the existing West Coast moratorium policy requires a Strategic Environmental Assessment Such an assessment, undertaken as a public review by an independent federally appointed panel, was deemed to be an appropriate means of consulting key stakeholders as to what needed to be determined prior to making a decision on whether or not to lift the federal moratorium. The federal government therefore initiated a three-part process comprised of:

1. A science review to assess the science gaps related to possible offshore oil and gas activity
2. A public review to ascertain public attitudes regarding the moratorium and its potential lifting
3. A First Nations Engagement process to obtain their knowledge and views on the matter.

The goal of this process is to provide decision makers with a solid understanding of the possible impacts of oil and gas activities in the Queen Charlotte Basin area of offshore B.C. It is important to note that this process itself is not expected to result in a decision on whether or not to lift the moratorium, but rather it is a way of fully exploring the issues and views of British Columbians on this matter. The findings of the process will be used to help inform the Government of Canada's decision-making as to whether or not to lift the moratorium.

It is important to note that the review is neither mandated, nor intended to address questions regarding ownership or jurisdiction concerning the study area. Also, that any decision to lift the moratorium for specific areas would not immediately result in activities. Before any activity could be undertaken, a regulatory and fiscal management regime would have to be put in place, and project proponents would be required to satisfy any environmental assessment and regulatory requirements.

How the First Nations Engagement Process was Conducted

Respecting the unique relationship Canada has with First Nations as well as the significance of their presence and role in the study area a distinct First Nations Engagement process was created to ensure that issues of unique interest to First Nations were fully explored. These discussions were primarily conducted in communities likely to be most directly affected by any future decision in regard to the moratorium, and were not intended to replace or preclude more detailed consultations if and when there is a decision to lift the moratorium or if activity of any sort is proposed. This report, "*Rights, Risks and Respect* ", presents the results of the discussions. The report also offers some thoughts on important considerations related to engaging with First Nations should there be continued focus on lifting the moratorium or engaging in development related activities at some time in the future.

The First Nations Engagement process was informal. Chiefs and Councillors of each First Nations community directly adjacent to or near to the boundaries of the Queen

Charlotte Basin were informed by means of letters, faxes, press releases and phone calls that the First Nations Engagement Process was underway and that the FNEP team would be pleased to meet with them at their convenience. Another set of invitations was sent to Tribal, regional and other coastal aboriginal organizations.

At the meetings, information was provided on the entire federal process. The Federal Science report prepared by the Royal Society (and other materials were distributed). Attendees then asked questions and provided comments from their various perspectives. In some cases only one meeting was held; in others, there were follow up sessions after people had time to review the materials and information. At each meeting the FNEP team recorded comments. then sent these notes back to participants to give them the opportunity to confirm their accuracy and or make changes or additions.

"...the majority of the First Nations in the basin area and several from outside that area have contributed at least preliminary views to this process."

Given the huge number of competing demands on First Nations leaders to participate in federal and provincial consultation and review processes, the FNEP had a very positive level of participation. In addition to the daily operational requirements of First Nations governments, leaders are often expected to make themselves available for a wide range of activities and meetings, many of which take them away from offices and homes for several days at a time. Furthermore, there are cultural obligations on community leaders surrounding community events, ceremonies and gathering activities that must take precedence over engagement in intergovernmental referrals. While scheduling meetings was challenging, the majority of the First Nations in the basin area and several from outside that area have contributed at least preliminary views to this process.

Who Participated in FNEP

Both individual First Nations and Tribal Councils from all the key cultural groups near to and adjacent to the Queen Charlotte basin participated either directly or through one or more umbrella organizations. They include Haida, Tsimshian, Kwakwaka'wakw and Coast Salish peoples. Detailed lists are provided later in this report.

Umbrella organizations, which represented various First Nations, included:

- British Columbia Aboriginal Fisheries Commission (BCAFC); draws its membership from the entire province
- Coastal First Nations – Turning Point; a formal alliance of seven First Nations
- Native Brotherhood of British Columbia; several hundred individual members and a number of community memberships
- Several Treaty and Tribal Fisheries organizations

The Nisga'a Lisims Government did not participate in the First Nations Engagement Process. They have provided a separate report on this issue to the Minister of Natural Resources Canada.

What FNEP Heard from the First Nation Participants

Many of the First Nations who met with the FENP expressed the view that they were not respected as First Nations governments in the design and development of this federal review process on the moratorium. Some felt they should have been involved in the Royal Society of Canada scientific review and in the selection of Public Review Panel members. They said their view that they were being involved in a token way was reinforced by the fact that the federal government, fully knowing of their capacity limitations, was not providing them any resources to develop and provide thoughtful and informed comment. Given the preceding statements, a number of concerns about procedural fairness and biased decision making were also expressed.

In different words each of the respondents expressed their inextricable links to the coastal waters and resources as foundational to their very cultures, traditions, livelihood and socio-economic conditions. FNEP was reminded that when the reserves were established along the coast, the First Nations were given very small tracts of reserve land because, in the words of the government's Reserve Commissioner Riley, First Nations in coastal British Columbia "does [sic] not require any large tracts of lands, because their actual farm and their larder and their coolers are actually the ocean". Although the First Nations informed FNEP that they had never needed anyone to tell them that, the recognition and documentation surrounding this information certainly reinforces their views of ownership and rights to jurisdiction and management of the coastal waters and resources.

"Respondents advised that their entire lifestyle is related to the ocean and its resources..."

In elaborating on the nature and extent of the connection to the sea and its resources FNEP was told of uses related to spiritual, economic, social, transportation, bartering, trading, political, subsistence, medicinal, recreational and educational purposes. Respondents advised that the entire lifestyle is related to the ocean and its resources and that there have already been many cumulative impacts and further damage to the resources could decimate the cultures. Several times, participants wanted FNEP to remind the federal government that the British Columbia coast is different from the East Coast, that is still has a viable fishery, which in their view should be fully rehabilitated as it is a renewable resource. The Council of Haida Nations said, "There is increasing pressure to use the marine resources that are available around the islands. In order to participate in informed debate and make informed decisions about the well being of the sea around Haida Gwaii, the Council of Haida Nations recognizes the need for a holistic perspective of marine and coastal knowledge around Haida Gwaii, integrating traditional, scientific and local sources of information"

In an area where unemployment of First Nations people is four to five times higher than for non-aboriginal peoples and gross annual incomes are as low as $9,000, people told FNEP they would literally starve without the bounty the ocean provides. As one person stated, "Why would we, some of us will never even own a vehicle or use fuels, risk giving up the very resources that keep us alive. The resources are not just for eating either, but are part of a way of life, gathering food with our families, sharing with our

communities. When we harvest and preserve foods we are teaching values and traditions, we are keeping our connections to each other strong, we care deeply about the resources around us and will not trade them for all the money in the world". First Nations told FNEP that as they are not going away from their ancestral territories they are always cognizant of their responsibility to protect those territories and the resources for future generations. In their view, the currently undefined and unknown risks and potential negative impacts of offshore oil and gas exploration are unacceptable. As one person stated, "Maybe the rigs would be here for 20 to 40 years and then leave, but our people will still be here and what will be left for us? What if government spent the money on improving fisheries and aquatic resources and tourism? With the great bounty and beauty of this area we could feed thousand and entertain many tourists for a very long time."

Mistrust of science reports done without First Nations involvement and input was a common message, both because many aboriginal people believe they have been misled by past reports and because there is important traditional ecological knowledge that can be contributed by First Nations who have had thousands of years of experience in these territories to accrue knowledge and understanding. However, the First Nations reiterated they could only contribute in this regard if financial resources were provided to them.

Although great care was taken by FNEP to characterize this process as engagement or information sharing, specifically the sharing of information and gathering of comments to help inform a policy decision, First Nations expressed great mistrust of this, frequently expressing their worry that anything they provided to FENP would be construed as "consultation" and used against them if government needed to justify their decision. The FNEP response was to refer to the fact that the question of whether or not to lift the moratorium is a policy decision and the federal government is voluntarily seeking input to inform their decision, not engaging in a legally required consultation to determine whether specific activities might negatively impact or infringe on their rights. FNEP also confirmed that any decision relating to the approval of a proposed activity that could potentially infringe on aboriginal rights or interests would trigger the obligation for full and formal consultation by the federal government.

"...First Nations are opposed to lifting the moratorium because from what they have learned and understand, it is not in the best interests of our people, the resources or their territories."

Again and again the majority of First Nations told FNEP that the currently available information is inadequate for them to make informed decisions as to whether or not the moratorium should be lifted. Some expressed the opinion that the available information is enough to confirm to them that that moratorium should not be lifted.

In both cases, the First Nations wanted it made clear that they are not saying "no" just to say "no", rather First Nations are opposed to lifting the moratorium because from what they have learned and understand, it is not in the best interests of their people, the resources and their traditional territories. They believe that risks to environment and lifestyle outweigh the returns.

FNEP heard that resources are needed to focus on bringing all coastal First Nations and organizations together because the coastline cannot be looked at in discrete compartments. They said each area of the coast is connected to the next. "The whole of the territory is like a house. Whatever happens in one room of the house will affect the livability and quality of life in the rest of the house. We are all part of the food chain, who benefits from developing the offshore and who loses? Whatever happens, we are all interconnected and need to work together to develop our resources sustainably."

First Nations conveyed that culture, traditions and lifestyles are so important and resources are a critical component of culture. They said that First Nations cultures are a major treasure, yet they feel that there seems to be little concern or care that these cultures are protected and preserved, even though they understand that Canada has a fiduciary obligation to make choices and decisions in the interest of First Nations.

Many people suggested that the cumulative environmental impacts of fish farming, forestry, cruise ship traffic, tourism activities, industrial run-off and now offshore oil and gas and/or seismic testing should be examined and documented so that sound environmental and economic decisions can be made. A number of respondents said that government(s) needs to be looking at ways of rehabilitating the environment that has already been degraded as a result of resource-based activities before further degradation is permitted. The strong message was that more comprehensive analysis of impacts is required before a decision of the magnitude of opening British Columbia's coast to offshore oil & gas exploration can be made in a responsible manner.

"The whole of the territory is like a house. Whatever happens in one room of the house will affect the livability and quality of life in the rest of the house."

Further, FNEP heard that Canada and British Columbia would need to provide iron clad assurances that if this moratorium is lifted and activity proceeds the two governments will accommodate First Nations rights, title and interests and provide fair compensation for damages and losses to the environment, cultures and lifestyles.

Considerations

The First Nations' landscape and issues are unique in British Columbia. With first contact with non - aboriginals in British Columbia happening as long as 150 to 200 years later than on the East Coast, cultures and traditions remain very strong, in particular the connection to life styles and economies that rely on the available resources of the land and sea. The abundance of resources, particularly on the coast, means that the people were less nomadic and had more time to devote to the maintenance of highly structured social and governance systems. These traditional and hereditary systems of governance co-exist and operate either in place of or along side of Indian Act systems and have very clear decision making protocols and high standards for environmental stewardship.

The absence of treaties clarifying ownership, setting out terms of relationships and the roles and responsibilities over the land and resources over most of the land base and waters in British Columbia creates ongoing controversy and tensions. Within the First Nations there are huge cultural diversity issues based in part on the fact that 64% of Canada's aboriginal language groups exist only in British Columbia and almost one-third of the Indian Bands in Canada are in British Columbia. There are over 30 different political groups, some aligned culturally, some regionally. Although only 13% of Canada's total Indian reserve land base is in British Columbia, 71% of Canada's' Indian reserves are in British Columbia. This means that there are few, if any, one size fits all solutions. It also means that engagement and consultation processes are complex and time-consuming and that finding consensus and building solutions can be slow and challenging.

"Although troubled, there are still substantial fisheries resources upon which all First Nations rely."

With the long coastline and great river systems, the common thread linking all coastal and inland First Nations in British Columbia is fish and other aquatic resources. Although troubled, there are still substantial fisheries resources upon which all First Nations rely. Any threat to the water or fisheries resource, either real or perceived, has great potential to unite British Columbia's First Nations in their efforts to preserve and protect the resource and their access to it.

Relationships between Canada and the First Nations are dynamic and evolving. Change is being driven by a combination of legal, public policy and pragmatic factors. Many of the legal decision on recognition of rights, the subject of title and the obligation to consult exist as a result of First Nations in British Columbia pursuing protection and recognition in the courts. Although several of the responses to FNEP addressed the legal obligations of Canada to First Nations, the writer will leave the discussion of those legal matters to the legal profession (whom she is confident will take that task up with great enthusiasm). It is suggested though, that the Minister's and his Cabinet colleagues' ability to place the results of the First Nations Engagement process in context would be helped by a briefing on key legal decisions such as Calder, Sparrow, Guerin, Delgamuukw, Metecheah, Haida and Taku. These cases, many from the Supreme Court of Canada, acknowledge and confirm the existence of aboriginal rights and title, state why government must consult on matters that can impact those rights, remind everyone of the importance of upholding the honour of the Crown and urge the parties to work respectfully to seek negotiated solutions. The pending judgments on Haida and Taku are also important to this moratorium decision process given the geographic area of the moratorium review and the critical questions related to ownership, the degree and nature of consultation and the obligation to accommodate that might be dealt with in the cases.

Driven by legal decisions and the need to create operational certainty in the country the federal government continues to develop and test consultation policies and procedures in order to meet its lawful obligations. Currently there are a range of approaches being implemented by various Departments, Ministries and Agencies. One of the impacts is that First Nations, with no resources to deal with this onslaught are being "buried with consultation and referral processes" For some, it is easiest to just say no, as the surest risk

management strategy to ensure that the rights and interests of their people are protected. Other First Nations suggest they are continually being forced to take legal action because it is one of the only ways to slow down the bulldozers that are rolling over them when they lack the resources to properly analyze and respond to consultation requests. It is the view of the author that **if** any forward momentum on oil & gas emerges, working out a consultation process collaboratively with involved First Nations could prevent much frustration for both parties. This approach could also save both time and money while providing some certainty that the obligation to consult has been appropriately discharged. Additionally, issues that must be resolved can be identified early on and dealt with in a pragmatic, cost effective manner rather than the reactionary and costly responses that have resulted in some other situations.

Treaty Negotiations are ongoing with approximately 50 First Nations in British Columbia. Some of the First Nations in the moratorium review area are engaged in the treaty process, some are not. Both subsurface resources and the question of how far rights extend into the tidal waters are subjects of negotiation. The First Nations and both federal and provincial governments are keenly interested in the decisions and actions coming out of the federal moratorium review. Potentially, these results have the capacity to set precedents or otherwise impact the negotiations and this must be considered in reaching a decision. At a recent First Nations Summit meeting in Vancouver, federal Minister Scott was told by the First Nations of their frustration with the slowness of the treaty process and the concern that the federal government is not living up to its constitutional responsibilities and fiduciary obligations to protect the rights and interests of aboriginal peoples. The First Nations also conveyed that where their rights and interests are being ignored or trampled they would take necessary actions to protect them. These concerns further emphasize the importance of giving appropriate consideration to First Nations views in the decisions about whether or not to lift the moratorium. A number of non-governmental organizations and environmental groups have either aligned themselves with or are supporting one or more First Nations on both specific and general issues in numerous First Nations traditional territories. FNEP was made aware of about six such organizations during the engagement process.

> *"...both the ultimate destination and the journey that takes us there are very important...."*

Moving Forward

The First Nations Engagement Process was undertaken to determine the unique views of First Nations with respect to whether or not the moratorium should be lifted. This was a simple question, resulting in fairly complex responses from community leaders. While much input was received in terms of the reasons for First Nations concerns regarding making a decision on lifting the moratorium based on presently available information, First Nations made it clear that from their perspective, identifying these concerns does not in any way satisfy the legal requirements for consultation on offshore activities that might take place in future.

First Nations said, "If there is going to be movement forward on this issue further dialogue and formal 'consultation' will be required to seek meaningful input with respect to next steps, to determine if there are any potential infringements of aboriginal rights, to identify potential mechanisms for accommodation and/or compensation if deemed necessary." Some First Nations said that an obvious next step would be to involve them in specifying what additional information is required for them to make an informed decision on the lifting of the moratorium. Some said they would be prepared to participate in conducting further reviews and studies to develop answers to key questions provided they were full partners in the process and received appropriate financial resourcing.

While only a few people were prepared to discuss what interests government needed to address if offshore exploration is to move forward, those that replied asked firstly that it be made clear this is a big **IF** from their perspective, they then provided their list of interests to be dealt with which included the following items:

- Consultation protocol – **If** governments want to move forward on offshore oil and gas exploration they must understand that First Nations need to be involved in designing processes, including the 'formal' consultation process, the development of a regulatory regime, and ongoing monitoring
- Revenue sharing – **If** offshore oil & gas exploration proceeds First Nations expect revenue sharing agreements to be negotiated with them before activity commences
- Capacity – **If** offshore oil & gas exploration proceeds First Nations will need resources and training support to develop skills for their people to work in the industry at every level. They will also want capacity to be able to participate in resource management, monitoring and potentially in regulatory activities
- Role in management – **If** offshore oil & gas exploration proceeds First Nations expect the federal and provincial governments to negotiate with them a clearly defined role in management and decision-making and to provide them with the resources for the exercise of that role
- Legacy Funds – **If** offshore oil & gas exploration proceeds, First Nations expect the federal and provincial governments to negotiate with them and put in place a legacy fund that will be available during resource exploitation and after the industry leaves the area
- **If** offshore oil & gas exploration proceeds, First Nations would need to see key science gaps filled, including the incorporation of traditional knowledge. They would want to be part of any study design, establishment of terms of reference and implementation

When addressing First Nations issues, potential for success is increased exponentially by working collaboratively with the First Nations from the outset to develop options. In terms of reconciling the conflicts and tensions in Canada-First Nations relationships on offshore oil and gas it has been noted that both the ultimate destination and the journey that takes us there are very important. First Nations are seeking recognition and respect, manifested in a meaningful role in government decision-making and management within their respective traditional territories. This will need to be done in a manner that is consistent with each First Nation's objectives and interests, recognizing that First Nations

along the British Columbia coast have differing degrees of legal interest along with a range of goals and views with respect to the British Columbia offshore.

Should government decide to continue moving forward on this agenda, in addition to meeting the legal obligations that burden the Crown, the honour of the Crown can also be upheld by involving First Nations communities immediately in the development of a long-term strategy for offshore oil and gas. This would minimize legal risk and potential work disruptions or delays caused by costly litigation, as well as contributing to a positive and productive relationship between First Nations and the federal Crown.

To re-consider their opposition to lifting the moratorium and potential development of an offshore oil & gas industry in British Columbia, First Nations are requesting time, and access to funding to conduct independent research and obtain copies of scientific and socio-economic data, including the documents referenced by the Royal Society of Canada Report. Ensuring that scientific data and socio-economic impact assessments are available to First Nations, with sufficient time to review and understand all the issues, will support informed comment and decision-making on the questions of whether or not to lift the moratorium on offshore oil & gas exploration or how to move forward on the potential development of the industry.

Several aboriginal organizations have indicated to the federal government that they would be interested in partnering with Canada in carrying out any next steps related to the potential lifting of this moratorium. Steps might include, but not be limited to, co-hosting information sharing and discussion forums in First Nation communities along the coast of British Columbia by coordinating a large gathering so that the First Nations can strive for agreement among them. It has been suggested that the agenda for such a meeting would include; reaching agreement on what commonly accepted basic information will be used in the communities, exchanging ideas as to what must or must not be done and how the various First Nations can work together both for the protection of their interests and to maximize the benefits to their people. Further it was suggested that such a meeting would require the attendance of key decision makers from government who were prepared to actually deal with the results of such a session.

The platform for moving forward constructively was established by the Right Honourable Paul Martin, Prime Minister of Canada at the close of the Canada – Aboriginal Peoples Roundtable in April 2004. In the report, Strengthening the Relationship, he stated:

> **"I would ask the Aboriginal leaders here and elsewhere to make a similar commitment and join with us in making dramatic change a tangible reality. To work with us and to work with one another. To put aside past problems and political rivalries so that we might achieve the dramatic progress we all want. From our vantage point, we will ensure a full seat at the table – as we have ensured today – to Aboriginal communities and leaders. No longer will we in Ottawa develop policies first and discuss them with you later. This principle of collaboration will be the cornerstone of our new partnership."**

SUMMARY

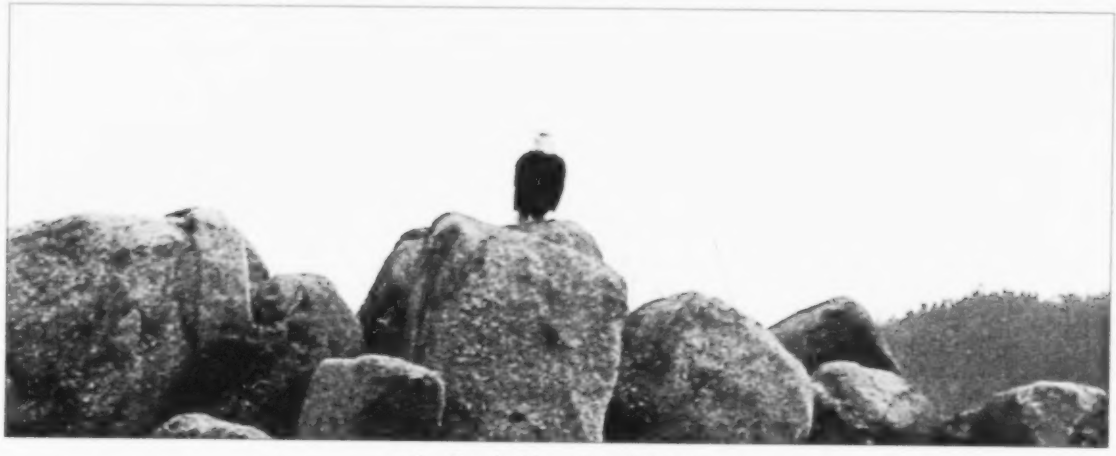
First Nations are objecting to lifting the moratorium because the ocean is their primary source of food, and the gathering of those resources is inextricably linked to their culture and their ultimate survival as distinct peoples. It is their view that the current science indicates to them that the impacts to marine species are too significant to offset the potential economic benefits of offshore exploration and development. Several have also commented that until the issues of ownership and jurisdiction are resolved – no further resources should be exploited in their traditional territories. The concern has been stated that with continued resource exploitation, the eventual treaty settlements will be empty baskets.

> *"...the federal government needs to acknowledge the rights and responsibilities of First Nations governments..."*

In short, most of the First Nations who participated in the Engagement Process told us that before lifting the moratorium more specific information is required so they are able to make informed decisions that serve the interests of their people and the traditional territories over which they have stewardship responsibilities. Some said there is enough information and it all says do not lift the moratorium. Broadly, the First Nations said that the federal government needs to acknowledge the rights and responsibilities of First Nations governments, resolve issues of resource ownership with them and clearly identify risks and mitigation strategies related to offshore oil development before they can agree to lifting the moratorium. In summary, the First Nations told FNEP to tell the federal government that the potential for moving forward in a constructive way on this issue depends on Canada and British Columbia respecting and accommodating First Nations as full partners in the decision-making, management and utilization of the resources in their traditional territories.

While it is not suggested that First Nations consent is an absolute pre-requisite to moving forward on British Columbia offshore oil and gas exploration and development, most parties at least infer that they recognize it would be very difficult to move forward without the support or non- resistance of First Nations. Unquestionably, addressing the myriad of unresolved questions and issues and sorting out the web of relationships between various players to find common ground is a challenging endeavour. Many of the First Nations who participated in FNEP indicated their preparedness to work with Canada in this endeavour. In other places, in those situations where each of the parties has come to the table with genuine good will and commitment to respectfully achieving mutual benefit, it has been possible to resolve the challenges and move forward. First Nations told the FNEP that it *may be possible* to move forward here too, but only if the decision as to the destination and the choice of a path to that destination is made with their input and involvement. They clearly agree with the Right Honourable Paul Martin, Prime Minister of Canada when he says, ***"This principle of collaboration will be the cornerstone of our new partnership."***

The Dock at Lax' Kwalaams



An Eagle Near Metlakatla

APPENDIX

Detailed List of First Nations Participants in First Nations Engagement Process and the Federal Public Review Panel Process

Meetings/Discussions with the First Nations Engagement Process

BC Aboriginal Fisheries Commission (a) and (b)

(a) At one meeting 12 First Nations including key coastal communities of Haida Nation, Heiltsuk, Dididaht, Hesquiaht

(b) At one meeting approximately 50 First Nations including many of the key Coastal First Nations communities

At a First Nations Summit meeting, several one on one discussions with Chiefs and Councillors of coastal Bands, and with Summit leaders, with the President of the Union of BC Indian Chiefs and with the BC regional Vice Chief for the Assembly of First Nations

Coastal First Nations – Turning Point Initiative

Council of Haida Nation

Da'naxda'xw First Nation

Gitxaala First Nation

Gwasala Nax'wadaxw

Gwawaenuk Tribes

Haisla Nation corresponded declining participation

Heiltsuk Nation unable to schedule meeting in time frame- attended PRP

Island Wide Meeting

Included representatives from Hul'qui'minum, Kyukot, Lyackson, Quatsino Snuneymuxw, Tsartlip and Uchucklesaht

Kitasoo confirmed orally that their views were presented by Turning Point

Kitselas First Nation

Kitsumkalum First Nation

Lax' Kwalaams First Nation declined meeting but sent correspondence to FNEP

Metlakatla First Nation

Musgamagw – Tsawataineuk Tribal Council five First Nations attended

Namgis' First Nation

Nisga'a Lisims Government (reporting separately)

Nuxalk Hereditary Chiefs

Qualicum First Nation

Quatsino First Nation

Tsimshian Tribal Council

Oral Presentations to the Public Review Panel were made by:

Chief Anfin Siwallace, Nuxalk Nation
Art Sterritt/Dr. Tom Gunton – Coastal First Nations (Turning Point)
Chris Cook, President – Native Brotherhood of British Columbia
Bob Hill, President – Tsimshian Tribal Council
Arnie Narcisse, President – BC Aborginal Fisheries Commission
Chief Bill Cranmer – Namgis' First Nation
Cecil Moody – Nuxalk Elder
Cliff Atleo Jr, - Treaty Manager – Nuu Chah Nulth Tribal Council
Eleanor Schooner – Nuxalk Elder
David Hunt – Kwakiutl Tribe
Rupert Wilson, Kwakiutl Tribe
Ernest Alfred – member Namgis' First Nation
George Alfred – member Namgis' First Nation
Chief Clifford White – Gitgaatla First Nation
Greg Wadhams – member Native Brotherhood of British Columbia
Tom Mexis Happynook – Huu-ay-aht First Nation
Stanley Hunt – member Namgis' First Nation
Terry Courbold for the Dene Island and Bella Bella
Warren Snow – Nuxalk Herediatry Chief
Dr. Martin Weinstein – Acquatic Resource Namgis First Nation
Melinda Pick – Haida member

Written Submissions were provided to the Public Review Panel by:

Art Sterritt/Dr. Gunton - Turning Point Coastal First Nations
Gitgaatla First Nation
Huu ay aht First Nation
Lax' Kwalaams First Nation
Nuu Chah Nulth Tribal Council
Nuxalk First Nation
Wuikinuxv Fisheries

Detailed List of key messages provided in meetings with FNEP

BC Aboriginal Fisheries Commission

On the question of whether or not the moratorium should be lifted: All members of the BCAFC in attendance expressed opposition to the lifting of the offshore oil and gas exploration and development moratorium.

Key Messages

There is a history of opposition to offshore oil and gas development off the west coast of British Columbia. Some First Nations are now prepared to consider lending their support to development, but only if a number of concerns about the impacts to the environment that might result from seismic testing are addressed to their satisfaction.

Joe Spader from Alaska reported on the Alaska experience. He noted that there should be a requirement for a full environmental impact assessment, including an assessment of cumulative impacts. He also noted that the impacts of the Exxon Valdeez spill are still continuing to be identified, and that the coastline has never fully recovered from this notorious oil spill. He also advocated for a coalition group to address science gaps and determine the regulatory framework for offshore development in the Queen Charlotte Basin, citing COOGER as an example.

Membership indicated that it is necessary for CEAA to ensure that environmental assessments regarding seismic activity be relied upon to determine if these projects go forward. There was some concern that an environmental assessment has rarely resulted in a project not being approved, and BCAFC is seeking assurances that the environmental impacts will be clearly identified and a sound decision made based on that information.

Technology for spill containment and clean-up needs to be improved.

Canada needs to review Nova Scotia and Newfoundland experience and approach to First Nations' issues.

Objections were raised to the structure and approach of the federal government to the current review. Including an objection that there has been insufficient time to prepare for discussions, and the First Nations Engagement process does not allow enough time for consideration of four UNBC reports due at the end of May.

Question was raised about how the Minister will weigh the FNEP report against the RSC and PRP reports.

Point raised that 6 Turning Point villages are boycotting the current federal review, and in fact all First Nations are being encouraged by Turning Point to boycott the federal review.

An objection was raised to the fact that there was no First Nations representation on the Public Review Panel, and no capacity funding for participation.

An independent study is underway by SFU with respect to British Columbia offshore activities, and this data will be presented to the Public Review Panel.

Calvin Sandborn of the Environmental Law Centre at University of Victoria raised the issue that procedural rights of participants are too limited, and that the rights of First Nations should be of a higher order.

Concern was raised that a decision about the Queen Charlotte Basin will set a precedent for the remaining basins with offshore oil and gas development potential, and the federal government should be looking at all areas at once.

Concern was voiced that First Nations are being "planned out of the plan".

In order for First Nations to provide informed consent, there needs to be shared information, and discussion in advance of decisions being made. Funding has been requested from Ministers Anderson, Mitchell, Reagan and Efford.

All First Nations need to be able to gather together to discuss issues unique to First Nations before being asked to provide views to the federal government and they need resources to enable them to do this.

Meeting Summary

April 2, 2004 - BCAFC Annual General Meeting

On the question of whether or not the moratorium should be lifted: *All members of the BCAFC in attendance were opposed to the lifting of the offshore oil and gas exploration and development moratorium.*

Key Messages

Scientific Panel at arms length, but Dr. Strong has indicated that his conclusion was nepotism. BC's speech from the throne identified that the economy needs a boost – we know that. Is the federal government planning to subsidize the British Columbia offshore industry as was done on the East coast? From an indigenous perspective, the risk of environmental disaster must outweigh the potential economic prosperity. (Cliff Atleo)

If the issue of compensation for fishermen merits mention (in the British Columbia presentation), then it is clear that negative impacts are expected. What about compensation for environmental damage? If Canada and British Columbia want to lift the moratorium, the issue of aboriginal rights and title needs to be addressed first. Concern that activity offshore will have serious impacts on the inland fisheries and yet inland First Nations are not being consulted. (Chief Fred Sams – Nicola Valley Tribal Council).

First Nations values and ethics need to play a role in the decision. Aboriginal rights and title need to be addressed before a decision can be made to develop the offshore. First Nations harvest resources in the ocean, at the bottom of the ocean and in intertidal zones. Rights and title are critical. There should be no tanker traffic, and First Nations need to be

consulted, not sold something as Peckford is trying to do. Some First Nations, such as those near Port Hardy may buy into the development because they are desperate to improve the depressed economy. We don't believe that Canada does not have a view, and we believe there is a plan in Canada that does not get influenced by First Nations, Want a voice, but feels very much like a victim. (Ed Newman, coastal co chair, BCAFC)

I am concerned, and looking for input. There is a link here to fish farming and the ways in which activities in the ocean impact on marine species and the native way of life. Scared that something will happen again, like fish farming, and First Nations should be the number one priority. First Nations were promised resources of the sea in exchange for reserves, and yet the government continues to impact the rights. Need to resolve treaty first before doing anything else. Should also repair the damage already done to the environment before taking new risks. Noted that the Native Brotherhood wants to be involved in all that happens in coastal waters. Need to have sustainable development. (Greg Wadhhams – 'Namgis).

Would like to hear from the Haida on this issue since it is their backyard. Treaties are not the answer. It is too dangerous to develop offshore oil and gas, any testing done will impact on the oolichan, and that will have a major impact on culture. Absolutely opposed to lifting the moratorium (did not self-identify).

Cost sharing principles are empty. Why did Mexico throw out the seismic testing there? We don't want it here. (Brian Wadhams - Namgis).

Went with Tsimshian Tribal Council to East Coast. Drilling requires digging up 2.5 acres of mud, up to 250 million acres per drill. Need to understand better what has been happening on the East coast in order to understand what to do here. Lease revenues are significant, but all of our fish go through the Queen Charlotte Basin. We depend on Halibut, Crab, Prawns and Salmon to feed our families. Opposed to lifting the moratorium. (Chief Henry Scow, Kwicktusaineuk/Ah-Kwa-Mish Tribes)

Concerned about the Priddle Panel. British Columbia has spent millions of dollars providing a comprehensive data set, no money from feds. Communities need access to information before they can intelligently comment. There is not enough time to adequately consider all the issues… why are we so rushed? It feels like there's a lot going on on the coast right now, and the priority for First Nations is land and resources. We are needing to inform ourselves on issues like fish-farming, changing fisheries structures and oil and gas. The impacts of these things on the fisheries is cumulative. We don't want a new economy, we want to protect our way of life. (Marty Weinstein, Fisheries Advisor, 'Namgis First Nation)

Have a seat on a few boards, know how they work. Worried about the impact of seismic testing on herring and groundfish etc. Testing will affect the food fishery, as well as endangered species and marine mammals. There is evidence that indicates that rockfish decline by 52% when seismic occurs, and squid discharge their ink, and herring are affected too. It's like taking a shotgun into your baby's room and firing it. We are all part

of the food chain, who benefits from developing the offshore? Whatever happens, we are all interconnected and need to develop our resources sustainably (Carl Edgar Jr., Ahousant).

Jurisdiction and ownership need to be addressed BEFORE lifting the moratorium. It is bad faith to offer to negotiate treaties and then give all the resources away, or take risks with them as has been done with fish farming. (no name – Winnalagalis Treaty Group)

If we have any hope as First Nations of getting our message heard in Ottawa, it is to set up meetings with Cheryl and tell her what we think. It is only through dialogue and communication that our voices will be heard. Up and down the coast, First Nations should be participating in any way they can to get their messages heard, whatever they are. (Chris Cook, President Native Brotherhood of BC and Namgis Band member)

Council of Haida Nations

On the question of whether or not the moratorium should be lifted: *All representatives of the Council of Haida Nations are opposed to the lifting of the offshore oil and gas exploration and development moratorium.*

Key Messages

The Haida have lived in the Queen Charlottes since time immemorial.

The CHN is not supportive of lifting the moratorium under any circumstances.

Traditional lifestyle and culture would be negatively impacted by offshore development.

Haida will still be here centuries from now and will ensure today that there are still resources for those future generations.

Impact to fisheries would mean that traditional experiences, lessons and foods would no longer be available.

Increased human activity would increase the transitory population and change the nature of the communities that are there now.

Including traditional ecological knowledge is important, current scientific report and public review processes reflect a pro-development bias.

The Haida will continue to govern and sustain their resources and in fact have the support of the broader non-aboriginal community on this issue.

Court cases currently being considered will inform CHN next steps if Canada attempts to have the moratorium lifted and activity undertaken in the Queen Charlotte Basin.

The Haida claim aboriginal rights and title to the Queen Charlotte Islands and the surrounding waters and sub-surface resources, including those areas being considered with respect to offshore oil and gas exploration and development.

Additional resources are needed to support ongoing community information and consultation processes - if people are going to participate in management processes, there must be support for their participation.

The CHN requires funding for further scientific research with respect to the Queen Charlotte Basin and any proposed offshore activity.

Da'naxda'xw First Nation

On the question of whether or not the moratorium should be lifted: *All Da'naxda'xw representatives in attendance are opposed to the lifting of the offshore oil and gas exploration and development moratorium unless the safety of marine resources can be 100% guaranteed.*

Key Messages

Oolichan are a critical species to the culture and are extremely sensitive to changes in the environment.

Offshore oil and gas activity will have a seriously negative impact on the oolichan, and other critical fisheries (salmon, crab, herring, groundfish) and marine wildlife (dolphins, orcas, seals).

Native culture is based on the sea, and the risk to the livelihood of coastal First Nations is not worth the financial benefit that could be gained through offshore development, and is not even guaranteed.

The Government of Canada should review the outcomes of OSAAN to understand First Nations perspectives on offshore development.

Culture and resources are so important, and yet there is a fear that nobody is listening to the concerns being raised, even though Canada has a fiduciary obligation to make choices and decisions in the interest of First Nations.

The issue of rights and title need to be addressed before any further exploitation of resources in the traditional territories can be allowed to proceed.

West winds will blow any spills inland and destroy the coastline and marine resources that are critical to the livelihood and culture of coastal communities.

Gitxaala First Nation

On the question of whether or not the moratorium should be lifted: *All representatives of the Gitxaala First Nation in attendance are opposed to the lifting of the offshore oil and gas exploration and development moratorium.*

Key Messages

Gixaala is the oldest community on the North Coast, and Queen Charlottes form part of the traditional territory of the Gitxaala people.

Including traditional ecological knowledge is important.

Gitxaala will retain 100% of its traditional territory and will govern and sustain the resources of land, air, and water, including the resources in, on, or under them.

Gitxaala is self-governing, self sustaining and inclusive of all its citizens and has governed itself for thousands of years before the arrival of the first Europeans, and will continue to do so. Gitxaala has always been there, and were never relocated by the colonial government.

Gitxaala asserts its constitutional rights and title as the oldest Nation on the coast.

Gitxaala governs by way of Aywaax, Adwaax, and Guu gwilyansk, the traditional laws of the Gitxaala Nation, which provide for informed decisions about how to manage the resources.

There is some divisiveness in the community, the youth want economic opportunity, the elders want sustainability, and in that, a cultural conflict exists.

Gitxaala has a moratorium in place with respect to along shore oil and gas exploration and development.

Considerations include earthquakes, socio-economic opportunities, certainty of ownership, seismic, tanker traffic, and increased human interaction with the community.

Consultation and accommodation are important – Gitxaala are seeking compensation for sharing the resource wealth of their traditional territory.

Gitxaala wish to be involved in monitoring activity.

Activity would result in further loss of territory to squatters, increased human activity, increased water traffic, short term and long term effects of spills and environmental damage.

The impacts of O&G development include social (cultural) change, employment, economic opportunities, partnerships, educational opportunities, pressures on community infrastructure. Gitxaala are seeking a right of first refusal to any opportunities in the territory, and assurances that when the oil wells run dry, there will be a positive legacy for the community, unlike the fishing industry.

Gitxaala raised specific concern about the sponge reefs. There are only 4 spots in the world with similar reefs, and they are all on the North Coast. These reefs are over 9000 years old and Gitxaala spiritual brothers and sisters are embodied in these reefs. Seismic activity, trolling and dumping will all negatively impact on the sponge reefs.

Gitxaala are committed to environmental sustainability for generations to come. The Ocean is the fridge and freezer of the Gitxaala and we need to know the impacts on all living species before proceeding and ensure that the ecosystem remains healthy.

Gitxaala recognizes three moratoria (Canada, British Columbia, and Gitxaala), and will lift their moratorium only if the needs and interests of Gitxaala are addressed. This can be done in a number of ways. There needs to be:

Informed decision making – sharing sufficient information with the community (both pro and con) so a decision can be made, and having Canada take into account the information provided by Gitxaala.

There needs to be government to government negotiations around benefit sharing.

Need funding for hereditary leaders and elders to go to sites where activity is underway so that they can see and hear the information in keeping with their oral traditions.

Require funds for participation, information, and real input into decision making

Environmental assessment is critical, and a comprehensive aquatic and marine resources management plan needs to be cooperatively developed.

Consultation is necessary, and funding for participation is needed. Current consultation requests are resourced by volunteers in a community with 85% unemployment.

Gitxaala maintains its moratorium on offshore oil and gas exploration and development in the Queen Charlotte Basin and encourages Canada to maintain its moratorium as well, until such time as the two governments can reach agreement of ownership, benefit sharing and management.

Gwawaenuk Tribes

On the question of whether or not the moratorium should be lifted: *All representatives of the Gwawaenuk Tribes in attendance are opposed to the lifting of the offshore oil and gas exploration and development moratorium.*

Key Messages

The food chain is integral to the culture and must be of primary concern.

The outstanding issues related to ownership and jurisdiction need to be sorted out before any further resource exploitation happens.

The coast is rich with known renewable resources that can be harvested and utilized – don't even know if oil & gas is there.

Province of British Columbia is prepared to take risks because of its financial needs.

Non aboriginal government always manipulate the resources to their particular current needs – they have no interest in the long term. Our people have been here forever and we must preserve our resources for the long term – future generations.

Concerned that government is co-opting aboriginal leaders by paying them to keep them on their side.

Government must remember we are a people, we have history, purpose, meaning, tradition, religion, culture and a future in our traditional territory that we must protect.

Kitselas First Nation
Kitsumkalum First Nation

On the question of whether or not the moratorium should be lifted: *All representatives of the Kitselas and Kitsumkalum Bands in attendance are opposed to the lifting of the offshore oil and gas exploration and development moratorium.*

Key Messages

There is an inability to forecast against "weather bombs", a unique weather phenomenon on the West coast where extreme storms whip up in moments. Also concern about insufficient tsunami warning. Concern that the technology does not exist to protect platforms and pipelines against these storms.

Spill containment and clean-up technology and infrastructure is insufficient and if there were a major spill, it would not be appropriately contained and cleaned up.

There is no limit to the number of drill sites permitted, and with each one, the risk of disaster increases.

There is a lack of geological information around ground slippage of the Queen Charlotte Basin.

There is inadequate scientific evidence with respect to how increased sound levels in the ocean will affect the ocean ecosystem as a whole.

Insufficient technology to handle sour gas leakage.

Regulatory regime should be in place before a decision can be made about whether or not the moratorium should be lifted.

Concern that skilled labour will be imported, and high paying jobs and benefits will not accrue to local people.

Capacity for local people should be part of the resource development plan and overall management regime (local hire policy etc).

Need training facilities closer to home for local people so that they don't have to leave their families to be adequately trained to take the skilled jobs (example of male forestry worker wanting to re-train, but not wanting to leave a wife and children behind for any length of time).

Need strategic alliances with other countries working in oil and gas offshore. Tax revenues should go to the local economy – 8% to be used to benefit the local community.

Traditional value of First Nations is to harvest and share the wealth of resources.

Rights and title, treaty negotiations need to be addressed before oil and gas activity takes place – there are diminishing resources to negotiate for.

First Nation communities rely on the resources of the sea, and cannot support oil and gas activity until the potential risks are understood and appropriate mechanisms in place to ensure the continued access to seafood fro all coastal First Nations.

We need more time and access to information before being in a position to offer informed comments and/or objections/consent.

First Nations want to know who will be planning and managing the resource development – First Nations need to have a meaningful role.

Need to understand the impacts to other industries and to culture of potential development.

Need more time to review and understand all the available information.

There needs to be a plan in place for a positive, long term, economic legacy in the communities close to the resource who are taking the risk.

Island Wide Meeting -

Included representatives from:

Hul'qui'minum
Kyukot
Lyackson
Quatsino
Snuneymuxw
Tsartlip
Uchucklesaht

On the question of whether or not the moratorium should be lifted: *All representatives in attendance were opposed to, or provided suggested preconditions to, the lifting of the offshore oil and gas exploration and development moratorium.*

Key Messages/Questions

Is this consultation? This process is not to be characterized as "consultation" by First Nations. Though this is not consultation, there is fear that the federal government will use this to avoid having to do more meetings and not give First Nations the time and resources to be 'meaningfully consulted'.

The resources belong to First Nations. Listening to what could happen, the dangers, we have to be very careful. No government will ever look out for First Nations. Government will never change to look after First Nation people, so we need to be our own advocates. Participating in 'information and dialogue' meetings like this is costly, and could create a risk that government won't come back again to discuss further, but have to make a choice to be involved so that our voice can be heard. (Wayne Morris).

What is the difference between "engagement" and "consultation"? (C Brooks) Engagement is a process of information sharing. Consultation is more specific in that it asks the questions as to whether a particular proposed activity or action will impact on an aboriginal right.

To me it implies that information will be shared – As First Nations we need access to information and the resources and capacity to provide meaningful input. In our view the moratorium could be lifted if the preconditions were met that science, training, and participation of First Nations will be planned for and completed before any drilling starts.

Taku case deals with similar circumstances to the Public Review Panel. Looking at accommodation and consultation assumes that the federal government has the authority to make that decision in the first place. It looks like Canada is going the same way as the province with respect to "accommodation agreements" which is not acceptable – there are many issues still to be resolved. Industry will not be interested until the First Nation issues are addressed.

This process feels like a sell-job – that the British Columbia and federal governments are pushing an agenda. It's not just about getting the low paying jobs. Need to establish a procurement strategy that targets First Nation areas of exclusive services as has been done in Saskatchewan, relating to forestry. (Dave Mannix)

Maa-nulth communities do feel well-informed, received funding from British Columbia to access and review information. Unless you get buy-in through education, etc, you will be facing a revolution. If the moratorium is lifted, the resources should go to First Nations communities to support training and scientific research that will support the First Nations being meaningfully involved.

It would be helpful if there were scientific reports done by First Nations, including First Nations at a meaningful level. Talking isn't enough, need to see action by government that reflects what is heard. Not just what, but how things are done… early involvement is critical.

Groundfish, shellfish, waterfowl, intertidal bivalves are domestic resources that need to be protected. If there is an impact, fair compensation needs to be provided. First Nations need to be part of the process. (Charlie Cootes)

The Alaska experience should not be relied on to inform decision because Cook Inlet did not have the same migratory stocks issue, and no commercial fishery. Fishermen in Cook Inlet use the rigs to assist salmon fishing now. Seismic testing poses a threat to marine life, with the impacts recorded as much as 6KM away from test sites. First Nations still live off the land, and nobody will protect the resources except for us. Need to better understand seismic testing before decision can be made.

Experience has been from gaffing with grandparents to a completely changed domestic fishery. Need to deal with aboriginal rights before moving forward on oil and gas. It is time for the federal government to prove that they own the land and resources. The land has not been surrendered, would like to see a bill of sale.

Benefits from oil and gas development should go to the local communities, with jobs, capacity and an economic legacy that will support the communities in the long term. First Nations need to be told about the opportunities and given access to training and capacity initiatives in order to be key participants in any new industry. (Tom Nelson)

The issues of resource ownership, jurisdiction and revenue sharing are being dealt with by the federal government in treaty negotiations. A key missing piece is having a regulatory regime in place, and need First Nation representation in the development of regulations so that First Nations interests and concerns can be addressed at this stage.

Providing information is important, but what information is provided, and who controls the studies is just as important. Time and resources are required to look at independent science, science everyone can agree on. This will take about a year. Then we could have an information package that reflects all views, science, and perspectives upon which to base a decision. Legitimacy of reports referenced by government is not known or recognized by First Nations (Brian Olding).

Metlakatla First Nation

On the question of whether or not the moratorium should be lifted: *Metlakatla Chief and Council members expressed concern about lifting of the offshore oil and gas exploration and development moratorium until further research has been done and more information is available to them about potential environmental and socio-economic impacts. Some members of council personally expressed opposition due to the potential risks. However, the Council as a whole was not prepared to take a position on the issue until further information was available to them.*

Key Messages

There is not enough information available to the First Nations to understand the potential risks and benefits of offshore exploration and development.

Resources are needed in order to provide expertise and advice to First Nations from a source that can be trusted.

Government needs a policy in place to ensure that local knowledge is incorporated into consideration before any decision is made.

First Nations don't want to be guinea pigs – the impacts need to be understood BEFORE any activity is to proceed.

There needs to be better education of all levels of government about what's going on now in BC's coastal waters.

If resources are being provided (i.e. British Columbia funded TTC), then those funds should be monitored and targeted for specific education purposes.

Even if all the salmon and seafoods are gone, even when there are no more resources, First Nations will still be here in the Basin, on the coast, and needing to eat and make a living. The risk is too great to proceed right now.

Need funding to undertake own science, so that the results can be relied upon.

Concern that data provided is biased and promotes development. Need to look at the good scientific arguments for not going ahead as well.

Communication between governments is poor. Need to develop a protocol, and over time, develop trust. Work together to manage the sensitive coastal environments.

The relationship between First Nations and Canada needs to be ongoing and meaningful.

Musgamagw –Tsawataineuk Tribal Council

On the question of whether or not the moratorium should be lifted: *All Musgamagw Tsawataineuk representatives in attendance are opposed to the lifting of the offshore oil and gas exploration and development moratorium.*

Key Messages

Oil and Gas development is a pollution-based profit initiative. Provincial support for this initiative is based on the revenues that may be generated through taxation and licensing.

Native culture is based on the sea, and the risk to the livelihood of coastal First Nations is not worth the financial benefit that could be gained through offshore development, and is not even guaranteed.

Concern raised that objections to lifting the moratorium will be seen as "fear-mongering" as was the experience with fish farms.

Culture and resources are so important, and yet there is a fear that nobody is listening to the concerns being raised, even though Canada has a fiduciary obligation to make choices and decisions in the interest of First Nations.

The issue of rights and title need to be addressed before any further exploitation of resources in the traditional territories can be allowed to proceed.

Need to look at the cumulative impact of fish farming, forestry and industrial run-off and now offshore oil and gas and/or seismic testing.

Need to look at ways of rehabilitating the environment that has already been degraded as a result of resource-based activities.

Development of offshore oil and gas could be the last nail in the coffin for coastal First Nations if there were a major disaster.

Resources that remain in coastal territories need to be protected for consideration in treaty negotiations. If all the resources are used up, then treaty settlements become "empty baskets".

Science is never unbiased or reliable. Need to have a body of science that all parties can rely on to inform decision making.

There is concern that the voice of First Nations is not being given enough weight in government decision-making process (concern that the FNEP is merely lip-service).

First Nations Summit met to discuss and voted in opposition of lifting the moratorium.

First Nations need to be part of the decision making, regulatory and monitoring processes if the industry is to proceed.

Questions Raised

How will leases be decided?

Who will get the royalties and revenues of offshore development?

Will there be taxation benefits and revenue sharing for First Nations?

Why is Canada considering lifting the moratorium when the US has continued its moratorium to 2015?

Nuxalk Hereditary Chiefs

On the question of whether or not the moratorium should be lifted: *All the Nuxalk representatives, both Indian Act elected government officials and the Hereditary Chiefs are opposed to the lifting of the offshore oil and gas exploration and development moratorium.*

Key Messages

While prepared to talk with us, very concerned that any contributions or ideas will not be considered by Canada anyway.

Given that rights and title are outstanding issues on the coast, these issues should be addressed before any more resources are taken.

The First Nations are tired of being ignored and treated as though their voices don't count. There needs to be real recognition from the government of Canada that First Nations have rights and ownership in these areas.

Referred to May 5, 2004, presentation made to Public Review Panel by elected Chief and Council for Nation's views with respect to the moratorium (attached).

Any impacts to the ocean will impact not only the food source itself, but the way of life of coastal people.

Salmon is critical food for the Nuxalk. Any impact to the salmon stocks on top of existing impacts from commercial pressures and other environmental impacts is unacceptable.

Eulachon have already stopped coming to the Nuxalk fishing areas, and this has meant that the cultural traditions are being lost. Concern that offshore activity will further deter the eulachon from returning.

Concern that traditional ecological knowledge needs to be respected.

Environmental stewardship should rest with First Nations who live and gather their foods from the area, not with Ottawa.

Government's past record of incorporating First Nations issues and values into its decisions is very poor, and the cumulative impacts of these decisions that don't reflect traditional values is that the culture continues to be undermined and destroyed.

There is much anger and frustration about the way decisions are made and the lack of a meaningful role for First Nations in decision making.

The Hereditary Chiefs are fully committed to the protection of their traditions, culture and traditional land and resources. (Showed photos and news clippings of their protests and legal actions regarding forestry issues and spoke of the linkages they have forged with environmental interests in Europe and USA – advised that several of these people have now settled in their territory)

Nuu chah Nulth Tribal Council

On the question of whether or not the moratorium should be lifted: *All representatives of the Nuu-chah-nulth Tribal Council are totally opposed to the lifting of the offshore oil and gas exploration and development moratorium.*

Key Messages

NCN would welcome resources to look at this issue further. Although other First Nations have accepted money from British Columbia for information sessions, the NCN perceive that accepting provincial money is tantamount to endorsing lifting the moratorium. For example, MNA accepted funding from British Columbia and are now on record supporting the lifting of the moratorium.

Current consultation practices are only the bare minimum required in law by cases such as Delgamu'ukw, Sparrow, etc. This is not sufficient and does not respect a meaningful role for First Nations in government decision-making.

Traditional uses in the QCB include bottom fishing and trade routes. The shorelines are our (NCN) gardens, and no amount of harm or damage to these resources is acceptable.

Traditional lifestyle and culture would be negatively impacted by offshore development.

Impact to fisheries would mean that traditional experiences, lessons and foods would no longer be available. Reference made to the Nestucca Bay settlement of $1.2 Million to the NCN for negative impacts resulting from a spill there. In PEI, there are still oil residues in the sand from previous spills. Wildlife, birds and herring are all impacted by oil mats now collecting on the ocean floor. The pollution carries on through the food chain.

Court cases currently being considered should inform next steps if Canada attempts to have the moratorium lifted and activity undertaken in the Queen Charlotte Basin.

NCN rights and title need to be recognized and treaty negotiations need to be resourced effectively.

Is there a need for oil and gas industry to come here? What are the risks? Are there cleaner alternative fuel sources that could be used or manufactured here?

Global warming is one component of this issue. We need to engage in a broader debate about whether or not the use of fossil fuels is a globally responsible action. What are the social impacts? Do the companies conduct themselves as "good corporate citizens"?

Any benefits from the resources in the area should be equitably and locally distributed. Need to make sure that there are resources available to all future generations.

The coastline cannot be looked at in discreet compartments. Each area of the coast is connected to the next. The whole of the territory is like a house. Whatever happens in one room of the house will affect the livability and quality of life in the rest of the house.

Impacts to the resources will have far reaching effects on the culture of NCN. The teachings and the relationships between youth and elders are centered on the traditional activities of fishing and gathering. The food is interconnected with the culture.

The resources of the traditional territories belong to First Nations.

The NCN also provided written materials supporting the points expressed in the meeting and detailing the particular marine resources that comprise part of their traditional diet and economy.

Quatsino First Nation

On the question of whether or not the moratorium should be lifted: *Chief Tomas Nelson of Quatsino First Nation has indicated that he is concerned about the impacts of seismic testing and would only support lifting the moratorium if sufficient data and technology was available to ensure the continued health of marine resources.*

Key Messages

Insofar as seismic testing impacts, using the example of Cook Inlet is not helpful, since the Inlet was already devoid of marine species and essentially "dead waters" before the offshore activities were introduced.

First Nations' culture is based on the sea, and the risk to the livelihood of coastal First Nations of seismic testing is not worth that risk.

There could be great economic benefit of offshore oil and gas exploration and development, and would be supported if the safety of marine resources could be assured.

Culture and resources are so important, and yet there is a fear that nobody is listening to the concerns being raised, even though Canada has a fiduciary obligation to make choices and decisions in the interest of First Nations.

Science is never unbiased or reliable. Need to have a body of science that all parties can rely on to inform decision-making.

Turning Point Coastal First Nations

On the question of whether or not the moratorium should be lifted: *All members of Turning Point in attendance were opposed to the lifting of the offshore oil and gas exploration and development moratorium at this time.*

Key Messages

Federal review process is flawed, and does not provide a mechanism for meaningful participation by First Nations.

The entire federal process lacks credibility and has bias built in.

Turning Point tried to get involved in designing the federal review process and feel that they were totally disrespected, further they are frustrated that the federal process was developed in the absence of funding for First Nation participation, and for additional, independent science research.

Turning Point is asking NRCan to revisit the existing process and establish a new review process with more meaningful First Nations involvement, or appoint a Turning Point representative to the Public Review Panel.

Option is between working together, or escalating opposition

The timeframe for the First Nation Engagement process is insufficient, and there should be funding for participation as has been provided by the British Columbia government.

Turning Point suggested a community based process that is co-hosted by NRCan and Turning Point involving all coastal First Nations and non-aboriginal communities.

Need to identify and fill science gaps before taking a decision with respect to whether or not the federal moratorium should be lifted.

This will become a political issue if NRCan does not cooperate with Turning Point on revisiting the federal review process.

Need to focus on bringing all coastal First Nations and organizations together (BCAFC, KDC, Tsimshian, Turning Point).

Funding is required to support Turning Point participation in the current federal review process.

Seeking access to, and funding to acquire all reports referenced by the Royal Society of Canada Science Report.

Biography of Cheryl Brooks

Cheryl has been operating her own consulting firm from Duncan, British Columbia since Nov 2000. Clients include First Nations and aboriginal organizations, federal and provincial governments and private sector companies. Her work has included developing strategic plans and operational plans, conducting negotiations, providing training in several areas including cross – cultural, negotiations, leading teams, and planning. She has also led team-building processes, facilitated numerous meetings and conflict resolution sessions, developed policy, participated in program evaluation, been a keynote speaker, provided advisory services and written numerous reports. Cheryl is an Associate Professor at Royal Roads University.

Earlier, Cheryl held senior level positions in the federal and provincial governments up to the Associate Deputy Minister level. She has work experience with aboriginal governments and organizations and as a senior manager in the corporate sector. Those who know her, describe her strengths as a manager, strategist and planner with proven experience in implementing change and innovation in organizations. Key accomplishments in some of her previous roles include: leading industry/government work to enhance BC's competitiveness in the oil & gas sector, facilitating innovative union/management agreements, leading a federal task group on enhancing service to the public, creating and implementing a corporate strategy for enhancing competitiveness and managing risk through sound aboriginal relations. She has formal project management training and experience managing major projects; including the development of an interactive computerized data base system and some complex multi-party negotiations. Cheryl has successfully acted as lead negotiator for numerous agreements with First Nations, industry and government.

As a volunteer, she has served as an executive member of a regional hospital board – comprised of 8 lower mainlands of British Columbia hospitals. Cheryl has worked with school and school district committees and served at a number of executive levels in local and national organizations. She is an experienced trainer and has done a lot of voluntary training for Boards of Directors of non-profit organizations. Cheryl has written numerous articles and the book, " In Celebration of Our Survival; the First Nations of British Columbia " published by UBC press.

Cheryl, who is a First Nations woman from the Sto: lo Nation in the Fraser Valley of British Columbia has lived and worked in both the non-aboriginal and aboriginal community which gives her particular insights into the opportunities for First Nations and others to work together in mutually beneficial ways. She applies her skills, knowledge and experience with diligence and enthusiasm. As one client said, "Cheryl's slogan is excellence and innovation – and she delivers it."